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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Tetsuya BONO

Group Art Unit: 1793

Application No.: 10/566,385

Examiner: J. WOOD

Filed: January 30, 2006

Docket No.: 126308

For: FUEL CELL SYSTEM AND GAS CONTROL METHOD

SUMMARY OF SUBSTANCE OF INTERVIEW

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant's representative conducted a personal interview on September 21, 2010, with Examiners Lorengo and Wood.

Claims 1-8 are pending in this application.

Examiners Lorengo and Wood are thanked for the courtesies extended to Applicant's representative at the personal interview. The following summary details the arguments presented at the interview. Applicant's representative presented arguments over the Office Action's rejection of claims 1-8 under 35 U.S.C. §102(b) over Saito (JP-A-2002-352837).

Applicant's representative noted for the Examiners that Applicant's September 16, 2010 response to the previous Office Action made arguments traversing the pending rejection. With reference to those arguments, Applicant's representative specifically noted that the Office Action effectively admits that that Saito fails to disclose each and every feature recited in claim 1. In order to cure this deficiency of Saito, the Office Action cites *In re Schreiber*, 128 F.3d 1473 (Fed. Cir. 1997), and alleges that features recited in claim 1 are mere

functional limitations and recite only a manner of use. Applicant's representative noted that the assertion of the Office Action is unreasonable because the precedent of *Schreiber* is not applicable for the reasons set forth in the September 16, 2010 response.

In response, the Examiners asserted that, in their opinion, the Office Action correctly applies *Schreiber*, and thus the rejection is proper. Applicant's respectfully disagreed. The Examiners then indicated that they would obtain an opinion of the Office of Patent Legal Administration to determine if their reading of *Schreiber* is reasonable. The Examiners further indicated that they would contact Applicant's representative before making a final determination regarding the application of *Schreiber*. Applicant's respectfully submit that the rejection over Saito is improper and should be withdrawn.

Should any questions arise regarding the correspondence, all inquiries may be directed to Applicant's undersigned representative at the telephone number set forth below.

Respectfully submitted,



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JAO:RGB/rle

Date: October 7, 2010

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